



Proskauer Rose LLP Eleven Times Square New York, NY 10036-8299

April 27, 2022

VIA ECF

The Honorable Gabriel W. Gorenstein
United States Magistrate Judge
Southern District of New York
500 Pearl St.
New York, NY 10007

Kathleen M. McKenna
Member of the Firm
d +1.212.969.3130
f 212.969.2900
kmckenna@proskauer.com
www.proskauer.com

MEMORANDUM ENDORSED

Re: *Eckhart v. Fox News, LLC, et al.*, Case No. 1:20-cv-05593 (RA) (GWG)

Dear Judge Gorenstein:

We represent Defendant Fox News Network, LLC in the above-referenced matter, and write jointly with counsel for Plaintiff Jennifer Eckhart and Defendant Ed Henry (collectively, the “Parties”) to respectfully request that the deadline for the completion of non-expert discovery be extended from April 29, 2022 to September 29, 2022. The Parties request this extension to the Case Management Plan and Scheduling Order (the “Scheduling Order”) (ECF No. 165) to allow for the review and exchange of ESI discovery and the completion of non-expert depositions. This discovery extension would require a change of other existing deadlines, as set forth below.

All Parties have served and responded to written discovery requests, and the Parties have made hard copy document productions. Both Plaintiff and Henry are engaged in forensic reviews of their electronic devices, a process that has taken several months. The Parties have additionally engaged in ongoing discussions regarding search terms to govern discovery of ESI. To this end, the Parties held a number of meet and confer calls and recently our negotiations concerning the search terms have reached an impasse and the parties will submit their dispute on this subject to the Court in a joint letter.

There are also outstanding discovery disputes, as set forth in Fox News’s April 21, 2022 letter to the Court. (Dkt. No. 202.) Further, the Parties anticipate that there will be approximately twenty-five (25)¹ fact witness depositions following the completion of document discovery. The Parties anticipate that an extension of several months will be necessary, and given anticipated scheduling concerns during the summer months, when the Parties are likely to be conducting depositions, request that the discovery deadline be extended through September 2022.

There is good cause for the extension of the discovery deadline as this additional time will be needed to resolve outstanding discovery disputes, permit the review and exchange ESI discovery, and complete non-expert depositions. Accordingly, the Parties respectfully request that the deadlines set forth in the Scheduling Order be extended as follows:

¹ Fox News does not agree this number of fact witness depositions.



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- The current deadline of April 29, 2022 for completion of non-expert discovery shall be extended to September 29, 2022;
- The current deadline of May 31, 2022 for disclosure of expert evidence shall be extended to October 31, 2022;
- The current deadline of June 30, 2022 for disclosure of rebuttal expert evidence shall be extended to November 30, 2022;
- The current deadline of July 30, 2022 for completion of expert depositions shall be extended to December 30, 2022; and
- The current deadline of September 17, 2022 for the filing of any motion for summary judgment shall be extended to February 17, 2023.

This is the Parties' first request for an extension of the discovery deadlines.

We thank the Court for its attention to this matter.

Respectfully submitted,

/s/ Kathleen M. McKenna
Kathleen M. McKenna, Esq.

/s/ Renan F. Varghese
Renan F. Varghese, Esq.

/s/ Cathy M. Foti
Cathy M. Foti, Esq.

cc: All counsel of record (via ECF)

The proposed schedule is approved.

So Ordered.

A handwritten signature in black ink, appearing to read "Gabriel W. Gorenstein".

GABRIEL W. GORENSTEIN
United States Magistrate Judge
April 28, 2022